IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

RFA.No. 24 of 2007()

OS.157/2005 of PRINCIPAL SUB COURT,KOCHI
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APPELLANTS/PLAINTIFFS:
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1. M/S. EAST WEST EXPORTS,
   POST BOX NO.2627, ALLEPPEY-688 007,
   REPRESENTED BY ITS PROPRIETOR
   MR. BAIJU SATHYAPALAN.

2. M/S. SEVEN OCEANS MARITIME AGENCIES,
   P.B.NO.685, WILLINGDON ISLAND, COCHIN-682 003,
   REPRESENTED BY ITS PROPRIETOR MR. AJITH KUMAR A.H.

   BY ADV. SRI.K.P. VIJAYAN
   ADV. SRI.V.M. SYAM KUMAR

RESPONDENTS/DEFENDANTS:
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1. FREIGHT SYSTEMS (INDIA) PVT. LTD.,
   TAJ BUILDING, 210, DR. D.N.ROAD, MUMBAI-400 001,
   REPRESENTED BY ITS MANAGER.

2. FREIGHT SYSTEMS (INDIA) PVT. LTD.,
   K.P.K.MENON ROAD, IIND FLOOR, HINA BUILDING,
   NEAR PERUMANOOR JETTY, WILLINGDON ISLAND,
   COCHIN-682 003, REPRESENTED BY ITS
   BRANCH MANAGER.

   BY ADV. SRI.V.J.MATHEW
   ADV. SRI.P.P.RAJESH
   ADV. SRI.BIJISH B.TOM

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T. SANKARAN, JJ.

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R.F.A. No. 24 OF 2007

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Dated this the 11th April, 2007

J U D G M E N T

Kurian Joseph, J:

This appeal is filed against the judgment and decree in O.S. 157 of 2005 on the file of the Prl. Sub Court, Kochi, whereby the plaint was rejected for non payment of balance court fee. It is seen from the judgment that ample opportunity and maximum indulgence was given to the appellants to pay the balance court fee. Yet, payment was not made.

2. After having heard the counsel on both sides, we are of the view that it is only in the interest of justice that an opportunity is given to the appellants to pursue the matter on the merits by permitting them to pay the balance court fee within a stipulated time and on conditions. Accordingly we allow the appeal in the following terms:

i) Judgment and decree is set aside on condition that the appellants shall pay the balance court fee, on or before 30.05.2007.

ii) Appellants shall pay cost to the tune of Rs. 5,000/- (Rupees five thousand only) to the respondents through their counsel and further a sum of Rs.5,000/- (Rupees five thousand only) to the Kerala High Court Legal Services Committee, on or before 30.05.2007.

Appeal is allowed as above.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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